



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

DATE: October 30, 2015

TO: Board of Agriculture, Trade and Consumer Protection

FROM: Ben Brancel, Secretary *Ben Brancel*
Steve Ingham, Division of Food Safety Administrator *Steve Ingham*

SUBJECT: ATPC 82- Licensing Bulk Milk Tankers; Hearing Draft Rule

PRESENTED BY: Steve Ingham

REQUESTED ACTION:

At the November 18, 2015, Board meeting, the department will ask the Board to authorize public hearings on a proposed rule to modify ch. ATPC 82 (Bulk Milk Collection, Sampling, and Transportation). The proposed rule adopts recent statutory revisions eliminating both licensing and license fee requirements for bulk milk tankers.

SUMMARY:

Background

Wisconsin has just under 10,000 licensed dairy farms; the milk from each of these farms is shipped to one of more than 400 licensed dairy plants in the state, or to a licensed dairy plant in another state. Approximately 4,000 bulk milk tankers from Wisconsin and other states deliver milk to Wisconsin dairy plants.

In the past, Wisconsin required the owner of bulk milk tankers used to transport grade "A" milk and milk products to hold a license and a grade "A" permit for each tanker. The department charged a licensing fee of \$45 and issued a grade "A" permit as an endorsement on the license. 2015 Wisconsin Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license fee requirements and thereby aligning Wisconsin with most other states by removing the requirement that bulk milk tanker operators hold both a tanker license and a grade "A" permit.

Rule Content

This rule incorporates recent statutory changes eliminating licensing and license fee requirements into ch. ATPC 82. The rule maintains the Grade "A" permit for the bulk milk tankers at no charge, but does adopt a modest increase in the reinspection fee to cover the department's cost for those reinspections. Reinspections are conducted when the department finds that a tanker has a regulatory violation. The proposed rule increases the reinspection fee from \$45 to \$60. Few bulk milk tankers receive reinspections. In the past year, only 13 tankers were reinspected.

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As part of this rule revision, the department also proposes to remove a confusing provision related to employees of companies that own bulk milk tankers. The current rule states that an employee who drives a bulk milk tanker is not required to obtain a separate Grade "A" permit to drive the truck, if the owner of the bulk milk tanker already has a Grade "A" permit for the tanker. However, this provision is unnecessary as an employee who drives a bulk milk tanker already bearing a Grade "A" permit would never be expected to acquire a separate Grade "A" permit. The original intent of the rule was to exempt an employee who drives a bulk milk tanker transporting and holding Grade "A" milk from the requirement to hold a bulk milk weigher and sampler license if the employee does not weigh or sample the milk. This requirement is implicitly stated in s. ATCP 82.04(1).

Comparison with Rules in Adjacent States

Michigan, Minnesota, Iowa, and Illinois adopt the Federal Pasteurized Milk Ordinance (PMO) as part of their dairy regulations. The proposed rule will align Wisconsin's regulations with the PMO and these neighboring states for licensing and permitting of grade "A" bulk milk tankers. Each of these states inspects milk tankers, and issues a grade "A" permit after inspection. Some states also charge a fee associated with these inspections.

Next Steps

If the Board authorizes public hearings on this rule, the department will refer a copy of the rule to the Legislative Council Rules Clearinghouse and publish a hearing notice in the Wisconsin Administrative Register. The department plans to hold hearings in Green Bay, La Crosse, and Madison in January 2016.

Following the public hearings, the department will evaluate all comments received at the hearings and prepare a final draft rule for the Board's consideration. If the Board approves a final draft rule, the department will transmit the final draft rule for the Governor's approval. After the Governor's approval, the final draft will be submitted for legislative committee review. If the Legislature has no objections to the rule, the Secretary will sign the final rulemaking order and transmit it for publication. The rule will take effect upon publication in the Wisconsin Administrative Register unless the final draft rule specifies a later effective date.

**PROPOSED ORDER
OF THE WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION
ADOPTING RULES**

The Wisconsin department of agriculture, trade and consumer protection hereby proposes the following rule *to repeal* ATCP 82.02 (1), ATCP 82.02 (4), and ATCP 82.02 (7) (b) and (c); *to renumber and amend* ATCP 82.02 (7)(a); *to amend* ATCP 82.02 (title), ATCP 82.02 (2) (intro.) and (e), ATCP 82.02 (3), ATCP 82.02 (6) (title), (a), (b), and (c), ATCP 82.02 (7) (title), and ATCP 82.02 (7) (d) (intro.); and *to create* ATCP 82.02 (2) (dm) and ATCP 82.02 (5); *relating to* bulk milk tanker licensing regulations, and affecting small business.

**Analysis Prepared by the Department
of Agriculture, Trade and Consumer Protection**

The Department of Agriculture, Trade and Consumer Protection ("department") regulates bulk milk tanker licensing and permitting, construction, maintenance, cleaning and sanitizing requirements; bulk milk weigher and sampler requirements, and mandatory procedures for collecting milk from dairy farms and delivering milk to a dairy plant and collecting milk samples for testing through ch. ATCP 82 (Bulk Milk Collection, Sampling, and Transportation). This rule revision will incorporate recent statutory changes eliminating licensing requirements for bulk milk tankers.

Statutes Interpreted

Statute Interpreted: s. 97.21, Stats. (Milk haulers and milk distributors).

Statutory Authority

Statutory Authority: ss. 93.07 (1), 97.09 (4), and 97.21 (6), Stats.

Explanation of Statutory Authority

The department has broad general authority, under s. 93.07 (1), Stats., to adopt rules to implement programs under its jurisdiction. The department also has general authority under s. 97.09 (4), Stats., to adopt rules specifying standards to protect the public from the sale of adulterated or misbranded foods. The department has specific authority to promulgate rules

related to milk haulers in s. 97.21(6), Stats., which allows the department to establish rules related to the following: fees and regulations for bulk milk tanker operators and milk distributors; standards for the construction, maintenance and sanitary operation of bulk milk tankers, milk distribution vehicles and milk distribution facilities; the design, installation, cleaning and maintenance of equipment and utensils; personnel sanitation; storage and handling of milk and fluid milk products; identification of bulk milk tankers and milk distribution vehicles; and record keeping.

Related Statutes and Rules

Wisconsin's milk haulers are governed by ch. 97, Stats. (Food Regulation). Milk haulers and milk distributors are regulated under s. 97.21, Stats., (Milk haulers and milk distributors). Chapter 82, Wis. Adm. Code, interprets ch. 97, Stats., as it relates to milk haulers and milk distributors.

Plain Language Analysis

In the past, Wisconsin required the owner of a bulk milk tanker used to transport grade "A" milk and milk products to hold both a license and a Grade "A" permit for that tanker. The department charged a licensing fee of \$45 and issued a Grade "A" permit as an endorsement on the license. 2015 Wisconsin Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license fee requirements and aligned Wisconsin with most other states by removing the requirement that bulk milk tanker operators hold both a tanker license and a grade "A" permit. The proposed rule continues the alignment with other states by maintaining the requirement that a grade "A" permit cannot be issued to a bulk milk tanker unless that tanker has passed an inspection by the department, a Wisconsin certified industry inspector, or a regulator from the relevant agency in another state within the preceding year. Reciprocity of the Grade "A" bulk milk tanker permit is required by the US Food and Drug Administration's Pasteurized Milk Ordinance (PMO), a cooperative agreement that governs the interstate shipment of Grade "A" milk and milk products, and is the basis of each state's Grade "A" milk requirements. The department proposes to incorporate these revisions into ATCP 82 to reflect these recent statutory changes and remain consistent with the PMO.

As part of this rule revision, the department also proposes to remove a confusing provision related to employees of companies that own bulk milk tankers. The current rule states that an employee who drives a bulk milk tanker is not required to obtain a separate Grade "A" permit to drive the truck, if the owner of the bulk milk tanker already has a Grade "A" permit for the tanker. However, this provision is unnecessary as an employee who drives a bulk milk tanker already bearing a Grade "A" permit would never be expected to acquire a separate Grade "A" permit. The original intent of the rule was to exempt an employee who drives a bulk milk tanker transporting and holding Grade "A" milk from the requirement to hold a bulk milk weigher and sampler license if the employee does not weigh or sample the milk. This requirement is implicitly stated in s. ATCP 82.04(1).

The rule also adopts a modest increase in the reinspection fee, so that it covers department costs. Reinspections are conducted by the department to verify that appropriate corrective actions have been taken, after an initial inspection indicates a bulk milk tanker does not meet one or more

regulatory requirements. In the past year, only 13 tankers required reinspection. The proposed rule increases the reinspection fee from \$45 to \$60.

Summary of, and Comparison with Existing or Proposed Federal Statutes and Regulations

The PMO establishes minimum standards for regulation of Grade "A" milk and milk products. States must set regulatory standards equivalent to, or more stringent than, those in the PMO to be allowed to ship Grade "A" milk and milk products in interstate commerce.

Comparison with Rules in Adjacent States

Michigan, Minnesota, Iowa and Illinois base their dairy regulations on the PMO. The proposed rule will align Wisconsin's regulations with the PMO and these neighboring states for licensing and permitting of grade "A" tankers and bulk milk weighers and samplers. Each of these states inspects bulk milk tankers, and issues a grade "A" permit after inspection. Some states charge a fee associated with these grade "A" inspections.

Summary of Factual Data and Analytical Methodologies

Proposed rule changes were developed in response to recent statutory change after a review of PMO requirements and a review of practices in neighboring states.

Analysis and Supporting Documents used to Determine Effect on Small Business

The PMO makes no distinction between large and small businesses in establishing requirements for collection, sampling and transport of grade "A" milk and milk products.

Effect on Small Business

By eliminating licensing fees, the proposed rule changes will benefit those dairy producers, dairy plants, and companies that operate bulk milk tankers, many of which are small businesses. The proposed rule includes a modest increase in the reinspection fee from \$45 to \$60, to cover the current cost of reinspection. This fee would only be charged if the department finds a regulatory violation necessitating corrective action and a reinspection. In the past year, only 13 owners of bulk milk tankers were charged a reinspection fee. All grade "A" dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the FDA's PMO in order to collect, sample, and transport grade "A" dairy products. The PMO allows for no special accommodations for small businesses.

DATCP Contact

Peter Haase, Director
Bureau of Food Safety and Inspection
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-4711
E-Mail: Peter.Haase@Wisconsin.gov

Where and When Comments May Be Submitted

Questions and comments related to this rule may be directed to:

Peter Haase, Director
Bureau of Food Safety and Inspection
Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911
Telephone: (608) 224-4711
E-Mail: Peter.Haase@Wisconsin.gov

Rule comments will be accepted up to two weeks after the last public hearing is held on this rule. Hearing dates will be scheduled after this rule is approved by the Board of Agriculture, Trade and Consumer Protection.

1 **SECTION 1.** ATPC 82.02 (title) is amended to read:

2 ATPC 82.02 (title) **Bulk milk tanker; license; grade A permit.**

3 **SECTION 2.** ATPC 82.02 (1) is repealed.

4 **SECTION 3.** ATPC 82.02 (2) (intro.) is amended to read:

5 ATPC 82.02 (2) (intro.) An application for a license grade A permit under sub. ~~(1)~~ (1m)

6 shall be made on a form provided by the department. An application shall include all of the
7 following:

8 **SECTION 4.** ATPC 82.02 (2) (dm) is created to read:

9 ATPC 82.02 (2) (dm) Proof of an inspection of the bulk milk tanker conducted within the
10 preceding 12 months by the department, another state's agency responsible for issuing grade A
11 bulk milk tanker permits, or a certified industry inspector as allowed under sub. (8).

12 **SECTION 5.** ATPC 82.02 (2) (e) is amended to read:

13 ATPC 82.02 (2) (e) All applicable fees and surcharges required under subs. ~~(4) to (5)~~
14 and (6).

1 **SECTION 6.** ATCP 82.02 (3) is amended to read:

2 ATCP 82.02 (3) **ACTION ON ~~LICENSE~~ PERMIT APPLICATION.** (a) The department shall grant
3 or deny a ~~license~~ permit application under sub. (2) within ~~40~~ 30 days after the department
4 receives a completed application.

5 (b) The department shall not issue or renew a ~~license~~ permit until the applicant has paid
6 all applicable fees and surcharges, set forth in a statement from the department, that are due and
7 payable by the applicant under this section. The department shall refund a fee paid under protest
8 if, upon review, the department determines that the fee is not due and payable.

9 **SECTION 7.** ATCP 82.02 (4) is repealed.

10 **SECTION 8.** ATCP 82.02 (5) is amended to read

11 ATCP 82.02 (5) **REINSPECTION FEE.** (a) If the department reinspects a bulk milk tanker
12 because the department finds a violation of ch. 97, Stats., or this chapter, the department shall
13 charge the bulk milk tanker operator a reinspection fee. The reinspection fee is payable when the
14 reinspection is completed, and is due upon written demand from the department. The department
15 may issue a demand for payment when it issues a ~~license~~ permit renewal application to the bulk
16 milk tanker operator, or at any other time after the fee becomes effective.

17 (b) The reinspection fee under par. (a) is ~~\$45~~ \$60.

18 **SECTION 9.** ATCP 82.02 (6) is amended to read:

19 ATCP 82.02 (6) (title) **SURCHARGE FOR OPERATING WITHOUT A ~~LICENSE~~ PERMIT.** (a) An
20 applicant for a bulk milk tanker ~~license-fee~~ permit shall pay a ~~license-permit~~ surcharge of \$100 if
21 the department determines that, within 365 days prior to submitting the ~~license~~ permit
22 application, the applicant operated a bulk milk tanker without a ~~license~~ or grade A permit in
23 violation of sub. ~~(4)~~ (1m) or (7).

1 (b) In addition to paying the ~~license fee~~ permit surcharge under par. (a), an applicant who
2 violated sub. ~~(1)~~ (1m). or (7). shall pay all fees, set forth in a statement from the department, that
3 are due and payable for the ~~license~~ permit year in which the applicant violated sub. ~~(1)~~ (1m) or
4 (7).

5 (c) Payment of the ~~license~~ permit surcharge and past fees under pars. (a) and (b) does not
6 relieve the applicant of any other civil or criminal liability which results from a violation of sub.
7 ~~(1)~~ (1m) or (7), but does not constitute evidence of any violation of law.

8 **SECTION 10.** ATCP 82.02 (7) (title) is amended to read:

9 ATCP 82.02 (7) (title) GRADE A PERMIT DISPLAY.

10 **SECTION 11.** ATCP 82.02 (7) (a) is renumbered ATCP 82.02 (1m) and amended to read:

11 ATCP 82.02 (1m) ~~Except as provided under par. (e), no~~ PERMIT REQUIRED. No person
12 may operate a bulk milk tanker to transport milk or fluid milk products for sale or use as grade A
13 milk or grade A dairy products ~~unless that person holds~~ the department, or an equivalent
14 regulatory agency in another state, has issued a valid grade A permit for that bulk milk tanker ~~by~~
15 ~~the department or an equivalent regulatory agency in another state where that bulk milk tanker is~~
16 ~~normally based and the information required under sub. (7) (d) is displayed on the bulk milk~~
17 tanker as required under sub. (7) (e). A grade A permit is not transferable between ~~persons or~~
18 bulk milk tankers.

19 **SECTION 12.** ATCP 82.02 (7) (b) and (c) are repealed.

20 **SECTION 13.** ATCP 82.07 (7) (d) (intro.) is amended to read:

21 ATCP 82.02 (7) (d) (intro.) The holder of a grade A permit under ~~par. (a)~~ sub. (1m) shall
22 display all of the following information, in the manner required under par. (e), on both sides of
23 the bulk milk tanker to which the permit applies:

1 **SECTION 10. EFFECTIVE DATE AND INITIAL APPLICABILITY.** This rule takes effect on
2 the first day of the month following publication in the Wisconsin administrative register, as
3 provided under s. 227.22(2)(intro.).

Dated this _____ day of _____, 2016.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By _____
Ben Brancel, Secretary

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: **Milk Haulers**
Adm. Code Reference: **ATCP 82**
Rules Clearinghouse #: **Not assigned**
DATCP Docket #: **15-R-07**

Rule Summary

The following proposed rule changes are needed to bring ATCP 82 in alignment with recent statutory changes that eliminated licensing and license fees for bulk milk tanker operators.

Wisconsin has just under 10,000 licensed dairy farms; the milk from each of these farms is shipped to one of more than 400 licensed dairy plants in the state, or to a licensed dairy plant in another state. Approximately 4,000 bulk milk tankers from Wisconsin and other states deliver milk to Wisconsin dairy plants.

In the past, Wisconsin required the owner of bulk milk tankers used to transport Grade "A" milk and milk products to hold a license and a Grade "A" permit for each tanker. The department charged a licensing fee of \$45 and issued a Grade "A" permit as an endorsement on the license. 2015 Wisconsin Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license fee requirements, and aligning Wisconsin with most other states by removing the requirement that bulk milk tanker operators hold both a tanker license and a Grade "A" permit. The department proposes incorporating these revisions into ATCP 82 to reflect these statutory changes.

As part of this rule revision, the department also proposes to remove a confusing provision related to employees of companies that own bulk milk tankers. The current rule states that an employee who drives a bulk milk tanker is not required to obtain a separate Grade "A" permit to drive the truck, if the owner of the bulk milk tanker owner already has a Grade "A" permit for the tanker. However, this provision is unnecessary as an employee who drives a bulk milk tanker already bearing a Grade "A" permit would never be expected to acquire a separate Grade "A" permit. The original intent of the rule was to exempt an employee who drives a bulk milk tanker transporting and holding Grade "A" milk from the requirement to hold a bulk milk weigher and sampler license if the employee does not weigh or sample the milk. This requirement is implicitly stated in s. ATCP 82.04(1).

Finally, the department is proposing to adopt a modest increase in the reinspection fee. Reinspections are conducted when the department finds that a tanker has a regulatory violation. Few bulk milk tankers receive reinspections. In the past year, only 13 tankers

were reinspected. Currently, the reinspection fee is \$45 and the proposed rule recommends an increase of this fee to \$60.

Small Businesses Affected

The proposed rule will be clearer and aligned with statutory provisions eliminating licensing and license fee requirements for bulk milk tanker owners, many of which may be small businesses. By eliminating licensing fees, the proposed rule changes will benefit dairy producers, dairy plants, and companies that operate bulk milk tankers, many of which may be small businesses. The proposed rule includes a modest increase in the reinspection fee, from \$45 to \$60. This fee would only be charged if the department finds a regulatory violation. In the past year, only 13 bulk milk tankers were reinspected.

All grade "A" dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the US Food and Drug Administration's Pasteurized Milk Ordinance (PMO) in order to collect, sample, and transport grade "A" milk and milk products, and no special accommodation may be made for small businesses.

Reporting, Bookkeeping and other Procedures

The rule would not require any additional reporting, bookkeeping or other procedures.

Professional Skills Required

The proposed rule does not require any new professional skills.

Accommodation for Small Business

All Grade "A" dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the PMO in order to collect, sample, and transport Grade "A" milk and milk products. The PMO contains no provision for special accommodation for small businesses.

Conclusion

The provisions in this proposed rule will benefit Wisconsin's dairy industry by clarifying Grade "A" permit requirements for milk tankers. It will abolish a fee, previously charged for a bulk milk tanker license. Implementation costs associated are expected to be minimal and the rule does not increase license or permit fees.

This rule will not have a significant adverse effect on "small business" and is not subject to the delayed "small business" effective date provided in s. 227.22(2) (e), Stats.

DATCP will, to the maximum extent feasible, seek voluntary compliance with this rule.

Dated this 30 day of October, 2015.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Steve Ingham
Steven C. Ingham, Administrator,
Division of Food Safety

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis

☒ Original ☐ Updated ☐ Corrected

2. Administrative Rule Chapter, Title and Number

ATCP 82, Bulk Milk collection, sampling, and transportation

3. Subject

Repealing bulk milk tanker licensing requirement

4. Fund Sources Affected

☒ GPR ☐ FED ☒ PRO ☐ PRS ☐ SEG ☐ SEG-S

5. Chapter 20, Stats. Appropriations Affected

20.115(1)(gb)

6. Fiscal Effect of Implementing the Rule

<input type="checkbox"/> No Fiscal Effect	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs
<input type="checkbox"/> Indeterminate	<input checked="" type="checkbox"/> Decrease Existing Revenues	<input type="checkbox"/> Could Absorb Within Agency's Budget
		<input type="checkbox"/> Decrease Cost

7. The Rule Will Impact the Following (Check All That Apply)

<input checked="" type="checkbox"/> State's Economy	<input checked="" type="checkbox"/> Specific Businesses/Sectors
<input type="checkbox"/> Local Government Units	<input type="checkbox"/> Public Utility Rate Payers
	<input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A)

8. Would Implementation and Compliance Costs Be Greater Than \$20 million?

☐ Yes ☒ No

9. Policy Problem Addressed by the Rule

2015 Wisconsin Act 55 revised s. 97.21, Stats., eliminating bulk milk tanker licensing and license requirements. The proposed rule change harmonizes ch. ATCP 82 with the revised statute. The current bulk milk tanker reinspection fee, although seldom charged, does not cover the costs of bulk milk tanker reinspection.

10. Summary of the businesses, business sectors, associations representing business, local governmental units, and individuals that may be affected by the proposed rule that were contacted for comments.

The proposed rule change generally affects the dairy industry, and specifically affects businesses operating bulk milk tankers. The department contacted the Dairy Business Association, the Cooperative Network, the Wisconsin Milk Haulers Association, the Wisconsin Association of Dairy Plant Field Representatives, the Wisconsin Cheese Makers Association, and the Wisconsin Dairy Products Association. No comments on the economic impact of the proposed rule change were received.

11. Identify the local governmental units that participated in the development of this EIA.

Grade "A" standards for bulk milk collection, sampling, and transportation are regulated by the State of Wisconsin's Department of Agriculture, Trade and Consumer Protection. Local governmental units are not impacted by this rule and did not participate in development of this EIA.

12. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule eliminates a license fee of \$45 for each bulk milk tanker operating in Wisconsin, thereby reducing costs for milk hauling firms. The proposed rule increases the fee for a bulk milk tanker reinspection. This reinspection is done to verify corrective actions taken by a bulk milk tanker operator to bring the bulk milk tanker into regulatory compliance. Reinspections of this type are infrequent, e.g. 13 in 2014.

13. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Failure to make the proposed rule change could create confusion resulting from the contradiction between statutes and rules affecting operators of bulk milk tankers. It could result in unlicensed bulk milk tankers from other states being

ADMINISTRATIVE RULES

Fiscal Estimate & Economic Impact Analysis

turned away from Wisconsin dairy plants without being able to deliver or pick up Grade "A" milk or milk products - even these tankers carry a Grade "A" permit. The bulk milk tanker reinspection fee does not cover costs incurred in conducting the reinspection. Failure to raise the fee would necessitate use of other funding streams to cover costs.

14. Long Range Implications of Implementing the Rule

Implementing this rule will ensure that Wisconsin continues to maintain substantial compliance with the PMO and can continue to ship Grade "A" milk and milk products in interstate commerce. It will ensure that Wisconsin's dairy-related businesses continue to fairly compete against dairy businesses in other states that do not require a license in addition to a grade "A" permit for bulk milk tankers.

15. Compare With Approaches Being Used by Federal Government

The Food and Drug Administration's (FDA's) Grade "A" Pasteurized Milk Ordinance (PMO) establishes minimum regulatory standards for Grade "A" dairy products. States must enact standards substantially equivalent to, or more stringent than, those in the PMO to be allowed to ship Grade "A" milk in interstate commerce. The proposed rule changes are consistent with the PMO.

16. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Michigan, Minnesota, Iowa and Illinois adopt the PMO as part of their dairy regulations. The proposed rule will align Wisconsin's regulations with the PMO and neighboring states for permitting of Grade "A" tankers. Each of these states issues a Grade "A" permit after inspection of a bulk milk tanker. Some states charge an inspection fee associated with these inspections.

17. Contact Name

Pete Haase, Director-Bureau of Food Safety and Inspection

18. Contact Phone Number

(608) 224-4711

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

This rule is expected to have a positive impact and will not have an adverse effect on small business. It does not alter requirements small dairy-related businesses already meet. It eliminates license fees.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

The agency requested comment on the potential economic impact of the rule from the following organizations: Dairy Business Association, Professional Dairy Producers of Wisconsin, Cooperative Network, Wisconsin Milk Haulers Association, Wisconsin Association of Dairy Plant Field Representatives, Wisconsin Cheesemakers Association, and the Wisconsin Dairy Products Association. No comments were received on the economic impact of this rule.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- ☒ Less Stringent Compliance or Reporting Requirements
- ☒ Less Stringent Schedules or Deadlines for Compliance or Reporting
- ☒ Consolidation or Simplification of Reporting Requirements
- ☒ Establishment of performance standards in lieu of Design or Operational Standards
- ☒ Exemption of Small Businesses from some or all requirements
- ☐ Other, describe:

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

While the agency considered methods for reducing the impact of the rule on small businesses, all Grade "A" dairy businesses, whether large or small, must meet regulations that are substantially in compliance with the PMO in order to collect, sample, and transport Grade "A" dairy products. No special accommodation may be made for small businesses. Other provisions in the rule will not substantially alter current practice.

5. Describe the Rule's Enforcement Provisions

The proposed rule does not modify existing enforcement provisions related to the collection, sampling, and transportation of milk. All food, dairy and state-inspected meat businesses are regulated under Chapter 97 of the Wisconsin Statutes. Enforcement provisions for these businesses are outlined in s. 97.72 and 97.73 and apply to both small and large businesses. ATCP 82.16 also contains specific provisions against falsifying records or reports required under ATCP 82, including records related to milk samples and records describing the amount of milk collected from a dairy farm.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

- ☐ Yes ☒ No
-